

(2) Is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(3) Supports a prevalence of such vegetation under normal circumstances.

Wetland reserve easement means a reserved interest easement which is an interest in land defined and delineated in a deed whereby the landowner conveys all rights, title, and interests in a property to the United States, but the landowner retains those rights, title, and interests in the property which are specifically reserved to the landowner in the easement deed.

Wetland reserve plan of operations (WRPO) means the document that is developed or approved by NRCS that identifies how the wetland functions and values and associated habitats on the easement will be restored, improved, and protected to achieve the purposes of the wetland reserve easement enrollment.

Wetland functions and values means the hydrological and biological characteristics of wetlands and the socioeconomic value placed upon these characteristics, including:

(1) Habitat for migratory birds and other wildlife, in particular at-risk species;

(2) Protection and improvement of water quality;

(3) Attenuation of water flows due to flood;

(4) The recharge of ground water;

(5) Protection and enhancement of open space and aesthetic quality;

(6) Protection of flora and fauna which contributes to the Nation's natural heritage;

(7) Carbon sequestration; and

(8) Contribution to educational and scientific scholarship.

Wetland restoration means the rehabilitation of degraded or lost habitat in a manner such that:

(1) The original vegetation community and hydrology are, to the extent practical, re-established; or

(2) A community different from what likely existed prior to degradation of the site is established. The hydrology and native self-sustaining vegetation

being established will substantially replace original habitat functions and values and does not involve more than 30 percent of the easement area.

§ 1468.4 Appeals.

(a) ACEP-ALE eligibility of entities. An entity which has submitted an ACEP-ALE application to be considered an eligible entity may obtain a review of any administrative determination concerning their eligibility for participation utilizing the administrative appeal regulations provided in 7 CFR parts 11 and 614.

(b) ACEP-WRE applicants and participants. An applicant or participant in the ACEP-WRE may obtain a review of any administrative determination concerning eligibility for participation or receipt of payment utilizing the administrative appeal regulations provided in 7 CFR parts 11 and 614.

(c) Easement administration determinations under ACEP after easement closing. NRCS determinations that are made pursuant to its rights in an ACEP-funded easement after closing may be appealed to the State Conservationist as specified in the notice provided to the landowner when NRCS exercises its rights under the easement. Such determinations are not subject to appeal under 7 CFR part 11.

§ 1468.5 Scheme or device.

(a) If it is determined by NRCS that anyone has employed a scheme or device to defeat the purposes of this part, any part of any program payment otherwise due or paid during the applicable period may be withheld or be required to be refunded with interest, thereon, as determined appropriate by NRCS.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving anyone of a program benefit, or for the purpose of obtaining a payment to which they would otherwise not be entitled.

§ 1468.6 Subordination, exchange, modification, and termination.

(a) After an easement has been recorded, no subordination, exchange, modification, or termination will be